

**PRIORITY SEND**

**JS-6**

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES -- GENERAL

Case No. EDCV 12-00826 VAP (OPx)

Date: May 31, 2012

Title: CANTERBURY LOTS 68, LLC -v- HECTOR CISNEROS

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PRESENT: HONORABLE VIRGINIA A. PHILLIPS, U.S. DISTRICT JUDGE

Marva Dillard  
Courtroom Deputy

None Present  
Court Reporter

ATTORNEYS PRESENT FOR  
PLAINTIFFS:

ATTORNEYS PRESENT FOR  
DEFENDANTS:

None

None

PROCEEDINGS: MINUTE ORDER REMANDING ACTION TO THE  
CALIFORNIA SUPERIOR COURT FOR THE COUNTY OF  
RIVERSIDE, AND DENYING AS MOOT PLAINTIFF'S EX  
PARTE APPLICATION TO REMAND (DOC. NO. 4)  
(IN CHAMBERS)

On May 21, 2012, pro se Defendant Hector Cisneros, invoking the Protecting Tenants at Foreclosure Act ("PTFA"), 12 U.S.C. § 5220 note, removed this unlawful detainer action from the California Superior Court for the County of Riverside. (See Not. of Removal (Doc. No. 1).) As discussed below, the PTFA provides no federal claim under which Cisneros can invoke this Court's federal question jurisdiction. Accordingly, the Court REMANDS this matter to the California Superior Court for the County of Riverside.

MINUTES FORM 11  
CIVIL -- GEN

Initials of Deputy Clerk \_\_\_\_md\_\_\_\_

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 CANTERBURY LOTS 68, LLC v. HECTOR CISNEROS  
 MINUTE ORDER of May 31, 2012

Removal jurisdiction is governed by statute. See 28 U.S.C. §1441. The Ninth Circuit applies a strong presumption against removal jurisdiction, ensuring "the defendant always has the burden of establishing that removal is proper." Gaus v. Miles, Inc., 980 F.2d 564, 566 (9th Cir. 1992) (citing Nishimoto v. Federman-Bachrach & Assocs., 903 F.2d 709, 712 n.3 (9th Cir. 1990)); see also In re Ford Motor Co./Citibank, 264 F.3d 952, 957 (9th Cir. 2001) ("The party asserting federal jurisdiction bears the burden of proving the case is properly in federal court."). "If at any time before final judgment it appears that the district court lacks subject matter jurisdiction, the case shall be remanded." 28 U.S.C. § 1447(c); FW/PBS, Inc. v. Dallas, 493 U.S. 215, 231 (1990) ("federal courts are under an independent obligation to examine their own jurisdiction"); see also Fed. R. Civ. P. 12(h)(3) ("If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action.")

Cisneros alleges the basis for removal is federal question jurisdiction, under 28 U.S.C. § 1331, because Plaintiff's claims "arise under" federal law. (See Not. of Removal ¶ 10.) From the face of the Complaint, however, Plaintiff's only claim is for unlawful detainer, a California state law action. See Franchise Tax Bd. v. Constr. Laborers Vacation Trust, 463 U.S. 1, 10 (1983) (holding that a defendant may not remove a case to federal court unless the basis for federal jurisdiction is apparent on the face of the complaint).

Rather than provide a federal cause of action, the PTFA offers a federal law defense to state law unlawful detainer actions. Wescom Credit Union v. Dudley, No. CV 10-8203 GAF (SSx), 2010 WL 4916578, at \*2 (C.D. Cal. Nov. 22, 2010). Existence of only a federal law defense cannot confer federal question jurisdiction on the Court, and therefore may not be the basis for removal of an action. Caterpillar Inc. v. Williams, 482 U.S. 386, 393 (1987). Accordingly, Cisneros cannot invoke the Court's jurisdiction under 28 U.S.C. § 1331, and the Court REMANDS this action to the California Superior Court for the County of Riverside. Plaintiff's Ex Parte Application to Remand (Doc. No. 4) is DENIED as moot.

**IT IS SO ORDERED.**